

**REVIEW OF THE DRAFT EIR/EIS
FOR THE PROPOSED IID WATER CONSERVATION AND TRANSFER PROJECT:
ENVIRONMENTAL JUSTICE IMPACT ANALYSIS**

Response to Comment L14-39

In response to comments, the text of Section 3.15 has been revised. The changes are indicated in subsection 3.15 in Section 4.2, Text Revisions in this Final EIR/EIS.

L14-39

ENVIRONMENTAL JUSTICE IMPACTS OF FEDERAL PROJECTS

Executive Order 12898, was signed by President Clinton on February 11, 1994. EO 12898 directs *"Federal agencies to take the appropriate and necessary steps to identify and address disproportionately high and adverse effects of Federal projects on the health or environment of minority and low-income populations to the greatest extent practicable and permitted by law."* However, the further objective of the EO is to enhance the provision of nondiscrimination in Federal programs affecting human health and the environment by promoting meaningful opportunities to access of public information and participation in matters relating to minority and low-income populations.

Therefore, the intent of EO 12898 is to identify the potential for disproportionate impacts to minority and/or low-income populations as a result of a Federal project like the IID water transfer, and then to provide informational outreach to these populations to make them aware of the potential impacts and to involve them in the decision process and evaluation of potential alternatives. The reasoning behind this informational outreach is to involve populations that have historically been disenfranchised from the standard public informational process. The Federal policy recognizes that low-income and minority populations have a right to information regarding these Federal projects, but do not have the same access or may have language, transportation, education or other obstacles that make it difficult for them to participate in the public information and planning process.

The Environmental Justice (EJ) analysis should not be limited in focus to low-income/minority "communities" only, although this is a common misconception. Indeed the EJ analysis is not limited to a specific minimum threshold level of population impacts and may be found when a very small low-income/minority population is impacted whether or not that population would be readily defined as a community. Part of this misconception has been generated by analysis of Federal project impact areas that are usually defined as adjacent to or the general area surrounding a proposed Federal project. However, the proposed IID water transfer is not a specific localized project, but rather a regional project with potential impacts to the greater Imperial Valley economy.

**CIC RESEARCH COMMENTS ON THE DRAFT EIR/EIS ENVIRONMENTAL JUSTICE
IMPACT ANALYSIS**

3.15 Environmental Justice

- 1) The Draft EIR/EIS Environmental Justice analysis employed a census tract impact methodology, based on physical proximity to the proposed project. Based on this definition (i.e., census tracts) the study identified low-income and minority communities as areas which were represented by above and below average percentage comparisons to the countywide average ethnicity and income, respectively.

- 2) In general the Environmental Justice impact analysis concluded that no EJ impact would occur disproportionately to any one specific low-income/minority community because the project impacts are countywide and not community specific (i.e., census tract specific). Further the study concludes that the impacts would likely occur throughout the region, therefore, low-income/minority communities would not be disproportionately impacted.
- 3) Further the study concluded that even though the worst case loss of farm employment is 1,400 jobs this would only represent 2.8 percent of the countywide employment (48,900). Therefore, it would not be a significant impact. Even within the farm employment sector the loss of 1,400 jobs would represent only 12 percent of the county's total farm jobs.
- 4) The Draft EIR/EIS states, "However, farm laborers could be affected as a group by fallowing activities and on-farm irrigation system conservation measures, which would reduce the demand for farm labor in some areas."

CIC Research Comments To The Consultant's Findings.

The census tract/community impact analysis performed by the Consultant for this project is not an appropriate methodology. The Consultant has misinterpreted the environmental impact criteria of EO 12898 as only pertaining to a "community" and that these communities can be defined by census tracts. The Consultant has also misapplied the impact of a region-wide Federal project as if it were a community-level project. In so doing the Consultant has ignored the region wide socioeconomic impacts and fails to address the potential for disproportionate impacts to the low-income and minority population throughout the Imperial Valley economy.

The proposed IID water transfers are a regional project with region-wide effects on employment loss. The Consultant has correctly identified the 48,900 countywide jobs. However, the appropriate measure of disproportionate impacts would have focused on the resulting 1,400 lost agricultural jobs identified by the Consultant and whether this employment loss would disproportionately affect low-income and/or minority households compared to the countywide population.

The census data clearly indicates that agricultural workers in general represent significantly higher proportions of low-income and/or minority households than the county's average employee/household characteristics. Therefore, a disproportionate Environmental Justice impact is likely. Indeed the Consultant states:

"However, farm laborers could be affected as a group by fallowing activities and on-farm irrigation system conservation measures, which would reduce the demand for farm labor in some areas. This effect would not disproportionately affect a specific community or area but could affect farm laborers, which are predominantly minority and low-income, as a population group."

The Consultant has clearly recognized that the predominate impacts of the water transfer program would be to minority and low-income farm laborers. However, the Consultant has inappropriately dismissed these impacts because the impacted low-income and/or minority population doesn't live in a specific community within the Imperial Valley. The correct

application and study conclusion using EO 12898 is that the water transfer program results in a disproportionate impact to the low-income and minority population of the Imperial Valley.

When Environmental Justice impacts are found, then Federal Government policy guidelines require significant outreach to the low-income and/or minority population. This outreach should begin very early in the study phase in order to inform the potentially affected low-income and minority populations of the proposed project, including proposed project alternatives. The informational outreach to this population should be conducted in a way that is conducive to their inclusion in the decision and planning process, including in a language, time, and place that is convenient to them.

Overall Environmental Justice Review Findings.

In general the Environmental Justice analysis performed by the Consultant is superficial and inappropriately applied. Specifically, the community-level impact analysis was inappropriate for this project. The Consultant on the Draft EIR/EIS for the Proposed IID Water Conservation And Transfer Project should redo the Environmental Justice analysis based on the potential region wide disproportional impacts to minority and low-income households resulting from the water transfer program. Furthermore, the Consultant should then provide recommendations for informational outreach to the impacted population and possible mitigation measures.

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ATTACHMENT F

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**REVIEW OF THE DRAFT EIR/EIS
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ENVIRONMENTAL JUSTICE IMPACT ANALYSIS**

Response to Comment L14-40

Please refer to the response given for Comment L14-39.

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L14-40

Farm Bureau Conservation Plan

Response to Comment L14-41

L14-41

I. Plan Goals & Features

- A. No Water Allocation to Farmland
- B. No Long Term Farm Contracts
- C. Completely Voluntary
- D. All Fields are Eligible to Participate
- E. No Incentive to Fallow or Farm Less
- F. Maximize Utilization of IID's Available Water
- G. No Debt to Finance Conservation Improvements
- H. Conserve and Transfer Water to Comply with Our Commitments

Comment noted.

II. Plan Components

- A. System improvements (including multipurpose lateral interceptors with mid-lateral reservoirs where needed) to capture canal spills and permit farmers to reduce tailwater.
- B. A positive, voluntary incentive program to increase farms' water use efficiency by reducing tailwater (with meters where needed) and reducing infiltration on fields with the highest infiltration rates.
- C. Implementing special conservation projects where practical.
- D. Utilizing research and extension to help farmers identify and implement more efficient and effective water use practices to get the most efficiency and production from the available water.
- E. A Debt Avoidance / Inadvertent Over-Run Avoidance Program administered by IID
IID would acquire control (by lease, purchase or option) of enough farmland to keep IID's total water use (including transfers) within its 3.1 MAF Colorado River entitlement, and to help provide funds to implement its conservation program without incurring debt, either public or private.

Expenditure Priorities

- A. Debt Avoidance / Inadvertent Over-Run Avoidance Program & current administrative expenses (including current necessary environmental mitigation)
- B. IID System Improvement Projects
- C. On-Farm Incentive Program including Metering
- D. Deferred Overhead (transfer prep, legal, EIR/EIS, environmental mitigation, lost sales, etc.)
- E. System Maintenance Catch-up (repair / maintenance of existing delivery system)
- F. Special Conservation projects
- G. Research and Extension (to help farmers choose & implement effective conservation practices)

The plan components might be implemented as follows:

The Debt / IOR avoidance program would be implemented by requesting bids and evaluating them based on the acre foot cost of the expected water yield. The best offers would be accepted. IID's total use would be kept at its maximum without exceeding its entitlement.

The farm incentive program would be developed, modified and administered by a qualified group so as to use the funds available to obtain the maximum amount of conservation. The programs developed should adhere to principles such as: effective, simple, low administration & overhead, fair, flexible, etc.

Special conservation projects could include on-farm projects which would not be feasible under the on-farm incentive program, but would provide cost-effective and predictable conservation. Many of these might also be selected from bids.

Funds Utilization

Based on a sample spreadsheet showing how transfer revenues for the first 20 years might be used in accordance with the specified priorities, some projects would have to be deferred for several years due to limited availability of funds.

Price re-determination was not taken into account.

Possible features of on-farm conservation program

1. Establish TARGETS for tailwater at appropriate levels: to obtain needed conservation and treat fairly the different crops and irrigation methods.
2. Incentive payments would be a percentage of the charge for the water used for the irrigation. (An incentive payment equal to \$15 / AF of delivered water might amount to about \$150 / acre foot for water conserved; & if 5 ac. ft. were used per year, an 80 acre field could earn about \$6,000 in incentive payments.)
3. Consider as tailwater any infiltration which exceeds established Evapo-Transpiration for the crop PLUS a generous leaching allowance (maybe 30%).

Following is a list of some problems that would be created by the IID-proposed conservation plan which would be avoided by this alternative plan:

1. Not Voluntary
 - a) Non-Participants are involuntarily bound by same allocation & pay-back, only without any money.
2. Pays the bulk of the money to those least likely to affect conservation—including absentee landowners—with no efficiency requirements
3. Encourages reduced farming by paying landowners to withdraw water from the land.
4. Requires binding, complex, long-term contracts recorded against the land
5. Imposes a permanent restrictive water allocation program on all farms
6. Uses an unjust & unfair basis for allocation
 - a) Rewards inefficient past use
 - b) Rewards those who disregarded IID's water conservation policies
7. It establishes an industrial-type water use & pay-back system for an agriculture with uncontrollable and unpredictable use characteristics
 - a) Farmers will have to budget their water, IID will be the enforcers
 - b) Farmers will need to under-use, or pay extra for water to finish crops
 - c) Will be sending unused water to junior right-holders free
8. Contains an undefinable "no-fallowing" clause.
9. Takes away water rights and value from District lands with low or no usage during a short, recent historical period.

FARM BUREAU CONSERVATION PLAN
FUNDS USE
SAMPLE

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Dollars in Millions

Year	Reve- nues	Debt / IOR Avoid- ance	Current Admin	IID System	New Sys maint	On-Farm Incentive & Meters	Enviro. Mitigation & Deferred Overhead	System Maint Catch- up	Special Cons Proj's	Re- search & Ex- tension	Balance	Year
A	B	C	D	E	F	G	H	I	J	K	L	M
1	5	-5									0	1
2	10	-6	-2	-2							0	2
3	16	-7	-1	-8							0	3
4	23	-8	-2	-13							0	4
5	31	-9	-2	-20							0	5
6	38	-9	-2	-22		-4	-1				0	6
7	45	-9	-3	-23	-1	-8	-1				0	7
8	54	-9	-3	-23	-2	-14	-2	-1			0	8
9	63	-9	-3	-23	-3	-19	-2	-3	-1		0	9
10	74	-8	-3	-17	-4	-26	-6	-4	-5	-1	0	10
11	77	-7	-4	-9	-5	-31	-6	-5	-8	-2	0	11
12	79	-5	-4		-6	-37	-7	-5	-13	-2	0	12
13	80	-4	-4		-6	-39	-6	-5	-14	-2	0	13
14	82	-3	-4		-6	-39	-5	-6	-17	-2	0	14
15	84	-2	-4		-6	-40	-4	-6	-20	-2	0	15
16	86	-2	-4		-6	-40	-4	-6	-22	-2	0	16
17	87	-2	-4		-6	-40	-4	-6	-23	-2	0	17
18	88	-1	-4		-6	-40	-6	-6	-23	-2	0	18
19	89	-1	-4		-6	-40	-6	-6	-23	-3	0	19
20	90	-1	-4		-6	-40	-7	-6	-23	-3	0	20
	1,201	-107	-61	-160	-69	-457	-67	-65	-192	-23	0	

Assumptions

Water use without Project would be 3.18 MAF in 2003 (80 KAF more than 3.1 MAF cap)
 IID system expenditures will be used for seepage recovery 1st, then interceptors
 That efficiency improvements will reduce over-run to less than 20 KAF by year 20
 Conservation will be in addition to a gradual increase in crop water use.
 IID delivery system improvements will require \$160 M capital cost
 Environmental mitigation costs will begin in year 6
 Current administration costs will be about 5% of revenues
 Price Redetermination will not reduce revenues during first 20 years

March 18, 2002